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IN THE
SUPREME COURT OF THE
UNITED STATES

October Term 1965

No. 660

KENNETH L. JONES, ADMINISTRATOR
of the
ESTATE OF JOSEPH BALL, DECEASED
Petitioner

vs.

THE UNITED STATES
Respondent

A PETITION FOR A REHEARING TO THE U. S. SUPREME COURT

To the Honorable Earl Warren, Chief Justice of the United States, and to the Honorable Associate Justices of the Supreme Court of the United States.

Petitioner respectfully prays that a rehearing be granted to review the judgment of the United States Court of Claims entered April 12, 1965 and, denial of motion for Amendment of Court Order July 16, 1965, and the denial of the petition for writ of certiorari on January 17, 1966, entered in the above entitled case.

Question Presented

Whether the statute of limitations applies to petitioner's claim based on the Act of August 4th, 1790 and the Constitution of the United States of America Amendment V and XIV, Secs. 1 and 4?

Constitutional Provisions Involved

"Nor shall any person be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation. (U. S. Constitution Amend. V)

"Nor shall any State deprive any person of life, liberty, or property, without due process of law. (U. S. Constitution Amend. XIV, Sec. 1)

The Validity of the Public debt of the United States, authorized by law, shall not be questioned. (U. S. Constitution Amend. XIV, Sec. 4)

Constitutional Law §786 Due Process — hearing
The Maxim "Audi Alteram Partem"—hear the other side—is a command, spoken with the voice of the due process clause of the Fourteenth Amendment against state governments and their executive, legislative and judicial branches, whenever any individual, however lowly and unfortunate asserts a legal claim. (From separate opinion by Frangfurter J.) United States Supreme Court Reports, Lawyers Edition 2 L. ED. 2D U. S. 355-357

Article VI of the U. S. Constitution

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation.

Statement

This suit was brought by petitioner, in the Court of Claims under (The Funding Act of August 4, 1790) as contained in the Statutes at Large (Vol. I P. 138) for the payment of unpaid interest which, is payable on demand and the principal which, is to be paid at the pleasure of the United States of America. The amount of the principal is $32,282.95 of stock that was authorized and issued by the United States of America, which was purchased by Joseph Ball, the interest being due the Estate of Joseph Ball, deceased. The respondent asserted the Statute of Limitations as it's only defense (Act of April 28, 1796 (1 Stat. 458) and 28 U. S. C. 2501.

Shephard's United States Citation Statutes P. 448 Department Reports, 1943 Edition (United States Statutes at Large (not in U. S. Code) Aug. 4, 1790 Ch. 34, 1 st. 138, Sq 1 st. 281, 79 US 627, 20 LE 337, 1 st. 190, 1 st. 213, 1 st. 214, 1 st. 228, § 3 § 36 US 328K, 9 LE 933, § 4 § 96 US 606, 24 LE 798 § 13 § 79 US 627, 20 LE 337, of which are the opinions and rulings of the U. S. Supreme Court.

Article I, Sec. 8, U. S. Constitution

By the powers of the Constitution, Congress may borrow money upon the faith of the United States pledged. (20 LE 337) Financial measures of various kinds for borrowing money to supply the wants of the Treasury, beyond the receipts from taxation and the sales of the public lands; have been adopted by the government since the United States became an independent nation. Subscriptions for a loan of $12,000,500.00 were on the 4th of August 1790, directed to be opened at the Treasury, to be made payable in certificates issued for the debt, according to their specie value. 1 Stat. at Large 139. Measures of the kind were repeated in rapid succession for several years, and laws providing for loans in one form or another appear to have been the preferred mode of borrowing money.

Joseph Ball was a subscriber to the said loan and was issued a contract drawn up by the United States of America, and agreed upon by both parties, as per (P. 340 LE 20). The transaction is completed when the lender has parted with his money, and the borrower has given promise of repayment at the time, and in the manner, and with the securities stipulated between them. It is evident Joseph Ball consented to the terms of the Funding Act of August 4th, 1790, or he

wouldn't have been a purchaser of the obligation. 20 LE P. 350 "To restore public confidence completely" says Chief Justice Marshall, "it was necessary not only to prohibit the use of particular means by which it might be effected, but to prohibit the use of any means by which the same mischief might be produced. The Convention appears to have intended to establish a great principal, that contracts should be inviolable." STURGIS V. CROWNSHIELD, 4 WHEAT. 206.

The power of Congress to interfere with Contracts for the payment of money is not greater or in any particular different from its power with respect to contracts for lands or goods. The contract is not fulfilled any more in one case than in the other by the delivery of a thing which is not stipulated, because by legislative action it is called by the same name. Words in contracts are to be construed in both cases in the sense in which they were understood by the parties at the time of the contract. 20 LE P. 350

20 LE P. 339 "It was hoped that it had settled forever that under a Constitution ordained, among other things, "to establish justice," legislation giving to one person the right to discharge his obligations to another by nominal instead of actual fulfillment could never be justified.

Public Credit and Confidence between man and man were destroyed. Nearly all the States issued their own bills of credit. Only 1 percent of the continental money was assumed by the United States of America. Act of Aug. 4, 1790 Sec. 4, Stat at Large 140 (24 LE 798). No sooner did the new government begin its auspicious course than order seemed to arise out of confusion. Commerce and industry awoke, and were cheerful at their labors for credit and confidence awoke with them. Everywhere was the appearance of prosperity, and the only fear was that its progress was too rapid to consist with the purity and simplicity of ancient manners."

Fisher Ames Works supra. 122

Public Credit was reanimated. The owners of property and holders of money freely parted with both, well knowing that no future law could impair the obligation of the contract." 2 Ramsey, Hist. sup. 433

20 LE 352 Legal Lender Cases

What is this but declaring that repudiation by the government of the United States of its solemn obligations

would be Constitutional? Whenever the fulfillment of the obligation in the manner stipulated is refused, and acceptance of something different from that stipulated is enforced against the will of the creditor, a breach of faith is committed; and to the extent of the difference of value between the thing stipulated and the thing which the creditor is compelled to receive, there is repudiation of the original obligation. I am not willing to admit that the Constitution, the boast and glory of our country, would sanction or permit any such legislation. Repudiation in any form, or to any extent, would be dishonor, and for the commission of this public crime no warrant, in my judgment, can ever be found in that instrument.

Joseph Ball was given a contract of 6% Interest of United States Stock purchased by him. The interest being payable quarter yearly and that the interest payment would be made wheresoever the credit of the stock shall exist on the books at the time such interest shall become due. After the expiration of the third quarter the interest was demandable only at the treasury. At no time was he to receive any more than eight dollars per hundred on account of both principal and interest.

The faith of the United States was hereby pledged to provide and appropriate hereafter such additional and permanent funds as may be requisite towards supplying any such deficiency, and making full provision for the payment of the interest which shall accrue on the stock to be created by virtue of the loans aforesaid, in conformity to the terms thereof respectively, and according to the tenor of the certificates to be granted for the same pursuant to this act.

Joseph Ball could have brought his contract in and, exchanged it for any other issue that Congress authorized, but it would have to be of his own consent, and not compelled by an act of Congress. Any other law or other contract would impair the obligation of the contract which would be in violation of the Constitution. (20 LE 339) 20 LE 350 (24 LE 796) 9 LE 933 20 LE 352

Marbury v. Madison I Cranch (5 US) 1372, 2 LEO

If then the courts are to regard the constitution; and the Constitution is superior to any ordinary act of the legislature; the Constitution, and not such ordinary act, must govern the case to which they both apply.

It is my claim that Joseph Ball possessed contracts in the amount of $32,282.95 that was authorized and issued by

the U. S. Congress Assembled, and the conditions of the contract stipulated by the U. S. Congress in the Act of August 4, 1790, and agreed to by Joseph Ball when purchasing the said contracts. I am only asking the Supreme Court to enforce the terms of the said contracts between Joseph Ball and the United States as specified in the Funding Act of August 4, 1790. Any other law would be unconstitutional, and would violate the rights of the creditor that, is guaranteed by the U. S. Constitution.

The U. S. Supreme Court has ruled and upheld in Edwards v. Kearzey in 1878 (24 LE 794 § 800). Briscoe et. al. v. The Commonwealth Bank of Kentucky (9 LE 928-938) and, Knox v. Lee and Parker v. Davis in 1870 (20 LE 336-354) that when a contract is agreed upon by two parties, no future law can change that contract. It is apparent by the U. S. Supreme Court rulings in these cases mentioned that, the Court has already ruled and held that, the Act of August 4, 1790, as a sacred contract, being bound by the Constitution and is to be upheld by both debtor and creditor. It is upon these grounds that I am asking the court for a rehearing. In Marbury v. Madison (5 US) 1372, 2 LE The Court has ruled that the Constitution is superior to any ordinary act of the legislature and that the Constitution must govern the case to which they both apply.

It is a known fact that racketeers, gangsters and even Communist stands upon the Constitution of the United States, because it is a protection of law under the fifth Amend. It is also my Constitutional right as an American citizen, asserting a legal claim against the United States, that I be granted a hearing before a judicial body, since I have never been heard or given the opportunity to present my claim properly before a Court.

I am not a lawyer, and I may not know how to argue my case elaborately, but nevertheless, as the U. S. Supreme Court has ruled in (2 L ED. 20 US. 355-357) hear the other side, is a command spoken, with the voice of the due process clause of the Fourteenth Amendment, whenever any individual, however lowly and unfortunate, asserts a legal claim. Constitutional law §786.

Conclusion

Whether the Act of April 28, 1796 can change the terms and conditions of a contract that was made in the Act of August 4, 1790, by the Congress of the United States, and ac-

cepted by a creditor, knowing that no future law could change or impair the terms of that contract, as is guaranteed by the Constitution of the United States.

For all the foregoing reasons petitioner prays that this petition for a rehearing be granted.

Respectfully submitted,

Kenneth L. Jones

KENNETH L. JONES, Administrator
of the Estate of Joseph Ball, deceased
9076 Madison Rd., Middletown, Ohio